

(Pub. L. 109-53, title I, §106, Aug. 2, 2005, 119 Stat. 466.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109-53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as a note under section 4001 of this title.

SUBCHAPTER II—CUSTOMS PROVISIONS

§ 4031. Tariff modifications

(a) Tariff modifications provided for in the Agreement

(1) Proclamation authority

The President may proclaim—

- (A) such modifications or continuation of any duty,
- (B) such continuation of duty-free or excise treatment, or
- (C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 3.3, 3.5, 3.6, 3.21, 3.26, 3.27, and 3.28, and Annexes 3.3, 3.27, and 3.28 of the Agreement.

(2) Effect on GSP status

Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate the designation of each CAFTA-DR country as a beneficiary developing country for purposes of title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] on the date the Agreement enters into force with respect to that country.

(3) Effect on CBERA status

(A) In general

Notwithstanding section 212(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)), the President shall terminate the designation of each CAFTA-DR country as a beneficiary country for purposes of that Act [19 U.S.C. 2701 et seq.] on the date the Agreement enters into force with respect to that country.

(B) Exception

Notwithstanding subparagraph (A), each such country shall be considered a beneficiary country under section 212(a) of the Caribbean Basin Economic Recovery Act [19 U.S.C. 2702(a)], for purposes of—

- (i) sections 1677(7)(G)(ii)(III) and 1677(7)(H) of this title;
- (ii) the duty-free treatment provided under paragraph 12 of Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement; and
- (iii) section 274(h)(6)(B) of title 26.

(b) Other tariff modifications

Subject to the consultation and layover provisions of section 4014 of this title, the President may proclaim—

- (1) such modifications or continuation of any duty,
- (2) such modifications as the United States may agree to with a CAFTA-DR country regarding the staging of any duty treatment set forth in Annex 3.3 of the Agreement,
- (3) such continuation of duty-free or excise treatment, or
- (4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions provided for by the Agreement.

(c) Conversion to ad valorem rates

For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 3.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

(Pub. L. 109-53, title II, §201, Aug. 2, 2005, 119 Stat. 467.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109-53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (a)(2), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended. Title V of the Act is classified generally to subchapter V (§2461 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

The Caribbean Basin Economic Recovery Act, referred to in subsec. (a)(3)(A), is title II of Pub. L. 98-67, Aug. 5, 1983, 97 Stat. 384, as amended, which is classified principally to chapter 15 (§2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as a note under section 4001 of this title.

§ 4032. Additional duties on certain agricultural goods

(a) General provisions

(1) Applicability of subsection

This subsection applies to additional duties assessed under subsection (b).

(2) Applicable NTR (MFN) rate of duty

For purposes of subsection (b), the term “applicable NTR (MFN) rate of duty” means, with respect to a safeguard good, a rate of duty that is the lesser of—

(A) the column 1 general rate of duty that would, at the time the additional duty is imposed under subsection (b), apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good; or

(B) the column 1 general rate of duty that would, on the day before the date on which the Agreement enters into force, apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good.

(3) Schedule rate of duty

For purposes of subsection (b), the term “schedule rate of duty” means, with respect to a safeguard good, the rate of duty for that good that is set out in the Schedule of the United States to Annex 3.3 of the Agreement.

(4) Safeguard good

In this section, the term “safeguard good” means a good—

(A) that is included in the Schedule of the United States to Annex 3.15 of the Agreement;

(B) that qualifies as an originating good under section 4033 of this title, except that operations performed in or material obtained from the United States shall be considered as if the operations were performed in, and the material was obtained from, a country that is not a party to the Agreement; and

(C) for which a claim for preferential tariff treatment under the Agreement has been made.

(5) Exceptions

No additional duty shall be assessed on a good under subsection (b) if, at the time of entry, the good is subject to import relief under—

(A) part A of subchapter III of this chapter; or

(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

(6) Termination

The assessment of an additional duty on a good under subsection (b) shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 3.3 of the Agreement.

(7) Notice

Not later than 60 days after the Secretary of the Treasury first assesses an additional duty in a calendar year on a good under subsection (b), the Secretary shall notify the country whose good is subject to the additional duty in writing of such action and shall provide to that country data supporting the assessment of the additional duty.

(b) Additional duties on safeguard goods

(1) In general

In addition to any duty proclaimed under subsection (a) or (b) of section 4031 of this title, and subject to subsection (a), the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (2), on a safeguard good of a CFTA–DR country imported into the United States in a calendar

year if the Secretary determines that, prior to such importation, the total volume of that safeguard good of such country that is imported into the United States in that calendar year exceeds 130 percent of the volume that is set out for that safeguard good in the corresponding year in the table for that country contained in Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement. For purposes of this subsection, year 1 in that table corresponds to the calendar year in which the Agreement enters into force.

(2) Calculation of additional duty

The additional duty on a safeguard good under this subsection shall be—

(A) in the case of a good classified under subheading 1202.10.80, 1202.20.80, 2008.11.15, 2008.11.35, or 2008.11.60 of the HTS—

(i) in years 1 through 5, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

(ii) in years 6 through 10, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(iii) in years 11 through 14, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(B) in the case of any other safeguard good—

(i) in years 1 through 14, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

(ii) in years 15 through 17, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(iii) in years 18 and 19, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

(Pub. L. 109–53, title II, §202, Aug. 2, 2005, 119 Stat. 468.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

Part A of subchapter III of this chapter, referred to in subsec. (a)(5)(A), was in the original “subtitle A of title III of this Act”, meaning subtitle A (§§ 311–316) of title III of Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 488, which enacted part A of subchapter III (§ 4061 et seq.) of this chapter and amended section 2252 of this title. For complete classification of subtitle A to the Code, see Tables.

The Trade Act of 1974, referred to in subsec. (a)(5)(B), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Act is classified generally to part 1 (§2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

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ment enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as a note under section 4001 of this title.

§ 4033. Rules of origin

(a) Application and interpretation

In this section:

(1) Tariff classification

The basis for any tariff classification is the HTS.

(2) Reference to HTS

Whenever in this section there is a reference to a chapter, heading, or subheading, such reference shall be a reference to a chapter, heading, or subheading of the HTS.

(3) Cost or value

Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether the United States or another CAFTA-DR country).

(b) Originating goods

For purposes of this chapter and for purposes of implementing the preferential tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

(1) the good is a good wholly obtained or produced entirely in the territory of one or more of the CAFTA-DR countries;

(2) the good—

(A) is produced entirely in the territory of one or more of the CAFTA-DR countries, and—

(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4.1 of the Agreement; or

(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 4.1 of the Agreement; and

(B) satisfies all other applicable requirements of this section; or

(3) the good is produced entirely in the territory of one or more of the CAFTA-DR countries, exclusively from materials described in paragraph (1) or (2).

(c) Regional value-content

(1) In general

For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 4.1 of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

(2) Build-down method

(A) In general

The regional value-content of a good may be calculated on the basis of the following build-down method:

$$RVC = \frac{AV - VNM}{AV} \times 100$$

(B) Definitions

In subparagraph (A):

(i) RVC

The term “RVC” means the regional value-content of the good, expressed as a percentage.

(ii) AV

The term “AV” means the adjusted value of the good.

(iii) VNM

The term “VNM” means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(3) Build-up method

(A) In general

The regional value-content of a good may be calculated on the basis of the following build-up method:

$$RVC = \frac{VOM}{AV} \times 100$$

(B) Definitions

In subparagraph (A):

(i) RVC

The term “RVC” means the regional value-content of the good, expressed as a percentage.

(ii) AV

The term “AV” means the adjusted value of the good.

(iii) VOM

The term “VOM” means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

(4) Special rule for certain automotive goods

(A) In general

For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 4.1 of the Agreement may be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

(B) Definitions

In subparagraph (A):

(i) Automotive good

The term “automotive good” means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20,